

MEMORANDUM ENDORSEMENT

Kuhl v. U.S. Bank Trust National Association et al.,
19 CV 8403 (VB)

In the attached submission dated January 28, 2020, (Doc. #30), plaintiff, proceeding *pro se*, files a sur-reply in opposition to defendants' reply memorandum of law and reply affirmation (Docs. ##27, 28).

As plaintiff acknowledges in his sur-reply, prior permission from the Court is required pursuant to Paragraph 2.C of Judge Briccetti's Individual Practices before a party may file a sur-reply. Here, plaintiff did not request nor receive permission to file a sur-reply but filed one nevertheless. Accordingly, the Court will disregard plaintiff's submission as an improper sur-reply.

The Court certifies pursuant to 28 U.S.C. § 1915(a)(3) that any appeal from this Order would not be taken in good faith, and therefore *in forma pauperis* status is denied for the purpose of an appeal. See Coppedge v. United States, 369 U.S. 438, 444–45 (1962).

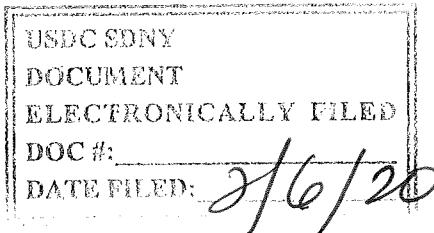
The Clerk is directed to mail a copy of this Order to plaintiff at the address on the docket.

Dated: February 6, 2020
White Plains, NY

SO ORDERED:



Vincent L. Briccetti
United States District Judge



U.S. DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF NY (White Plains)

Original

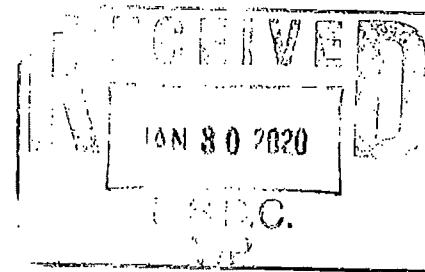
-----X
JONATHAN KUHL

: INDEX:7:19-cv-08403-VB

Plaintiff

v.

U.S. BANK TRUST NATIONAL
ASSOCIATION , NOT IN ITS INDIVIDUAL
CAPACITY BUT SOLELY AS OWNER
TRUSTEE FOR LEGACY MORTGAGE
ASSET TRUST 2018GS-1, MTGLQ
INVESTORS, LP and RUSHMORE LOAN
MANAGEMENT SERVICES LLC



: Affidavit

Defendants

-----X

1. This sur-reply is submitted in opposition to the reply affirmation of Erina Fitzgerald Esq. (Docket 28) filed on January 16, 2020 and received by me on Monday,

2, I realize that permission is normally required to file a sur reply, but Ms. Fitzgerald raised new issues in her affirmation and submitted what appears to be a falsified document. As such, I feel it is important to bring this to the court's attention without delay,

3, The first cause of action in my complaint alleges violation of 15 USC 1641 (g) against U.S. Bank National Association Not In Its Individual Capacity

but Solely as Owner Trustee for Legacy Mortgage Asset Trust 2018 GS1 because as the new creditor it failed to notify me it had bought my loan within 30 days.

4. In arguing that such transaction falls under TILA's one year statute of limitations, Ms. Fitzgerald submits (Exhibit A) a "Notice of Sale of Ownership of Mortgage Loan" indicating a transfer of my loan to "U.S. Bank as owner trustee for Legacy Mortgage Asset Trust 2018-GS1" dated June 11, 2018,

5. Based on this, counsel argues that more than one year transpired between the mortgage sale and the commencement of this action,

6. Attached as Exhibit B is the Assignment of my mortgage to "U.S. Bank as owner trustee for Legacy Mortgage Asset Trust 2018-GS1" which was notarized on January 31, 2019 and filed with the Dutchess County clerk on February 14, 2019. I downloaded this from the county website today,

6. It seems that the defendant U.S. Bank Trust has done the miraculous and notified me of its acquisition of my mortgage loan eight months before it happened.

7. As such, my cause of action for violation of 1641 (g) was timely.

8. I ask that Ms. Fitzgerald's motion of dismiss my First Cause of Action be denied and that Cause of Action be converted to one for Summary Judgement pursuant to FRCP 56 as there are no questions of fact in this regard but only questions of law.

9. I swear under penalty of perjury pursuant to the U.S. Code that the above statements are true,

Respectfully,

jk
Jonathan Kuhl, *pro se*

Dated: January 28, 2020

EXHIBIT A



P.O. Box 55004
Irvine, CA 92619-2708
888.809.5600 toll free
949.341.0777 local
949.341.2200 fax
www.rushmorelm.com

June 11, 2018

+ d677374 000000067 09R4L2 0926666

JONATHAN A KUHL
115 S QUAKER LN
HYDE PARK NY 12538-2723

[REDACTED]

Notice of Sale of Ownership of Mortgage Loan

Under federal law, borrowers are required to be notified in writing whenever ownership of a mortgage loan secured by their principal dwelling is sold, transferred or assigned (collectively, "sold") to a new creditor. This Notice is to inform you that your prior creditor has sold your loan (described below) to us, the new creditor identified below.

****NOTE:** The new creditor identified below is not the servicer of your loan. The servicer (identified below) acts on behalf of the new creditor to handle the ongoing administration of your loan, including the collection of mortgage payments. Please continue to send your mortgage payments as directed by the servicer, and NOT to the new creditor. Payments sent to the new creditor instead of the servicer may result in late charges on your loan and your account becoming past due. Neither the new creditor nor the servicer is responsible for late charges or other consequences of any misdirected payment.

SHOULD YOU HAVE ANY QUESTIONS REGARDING YOUR LOAN, PLEASE CONTACT THE SERVICER USING THE CONTACT INFORMATION SET FORTH BELOW. The servicer is authorized to handle routine inquiries and requests regarding your loan and, if necessary, to inform the new creditor of your request and communicate to you any decision with respect to such request. **

Please note that the sale of your loan to us may also result in a change of servicer. If this occurs, you will receive a separate notice, required under federal law, providing information regarding the new servicer.

LOAN INFORMATION

Date of Loan: 07/31/2003

Original Amount of Loan: \$224,250.00

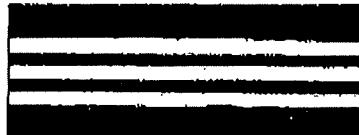
Date Your Loan was Sold to the New Creditor: 05/14/2018

Prior Loan Number:

Current Loan Number:

Address of Mortgaged Property: 115 MELANIE WAY
HYDE PARK, NY 12538

EXHIBIT B



Dutchess County Clerk Recording Page

Record & Return To:

FIRST AMERICAN MORTGAGE SOLUTIONS
3 FIRST AMERICAN WAY
SANTA ANA, CA 92707

Date Recorded: 2/14/2019
Time Recorded: 10:22 AM
Document #: 01-2019-50268A

Received From: Simplifile

Assignor: MTGLQ INVESTORS, L.P.
Assignee: U.S. BANK TRUST NATIONAL ASSOCIATION

Recorded In: ASSIGNMENT OF MORTGAGE
Instrument Type: ASSN
Original Mortgagor: KUHL ANN L

Examined and Charged As Follows :

Recording Charge: \$50.50 Number of Pages: 2

*** Do Not Detach This Page
*** This is Not A Bill

County Clerk By: SYS
Receipt #: 4665
Batch Record: 32

A handwritten signature in blue ink, appearing to read "Bradford Kendall".

Bradford Kendall
County Clerk



01201950268A



NEW YORK

COUNTY OF DUTCHESS

LOAN NO.: 21524734 [7601314432]

WHEN RECORDED MAIL TO: ATTN: ASSIGNMENT DEPT., RUSHMORE LOAN MANAGEMENT SERVICES LLC C/O FIRST AMERICAN MORTGAGE SOLUTIONS, LLC, 1795 INTERNATIONAL WAY, IDAHO FALLS, ID 83402, PH. (208) 528-9895

SECTION: 6264 BLOCK: 02 LOT: 590558



ASSIGNMENT OF MORTGAGE

FOR VALUE RECEIVED, MTGLQ INVESTORS, L. P., located at 2001 ROSS AVENUE SUITE 2800, DALLAS, TX 75201, ASSIGNOR, without recourse does hereby assign and transfer unto U.S. BANK TRUST NATIONAL ASSOCIATION, NOT IN ITS INDIVIDUAL CAPACITY BUT SOLELY AS OWNER TRUSTEE FOR LEGACY MORTGAGE ASSET TRUST 2018-GS1, located at 60 LIVINGSTON AVENUE EP-MN-WS3D, ST. PAUL, MN 55107, ASSIGNEE, its successors and assigns, all of Assignor's right, title, and interest in and to that certain Mortgage dated JULY 31, 2003, made by ANN L. KUHL, A SINGLE WOMAN AND JONATHAN A. KUHL, A SINGLE MAN, Mortgagor, to HOMEOWNERS LOAN CORPORATION, Original Mortgagee, in the principal sum of \$224,250.00 and recorded on JANUARY 07, 2004 as Document No. 01 2004 363 in the office of the County Clerk/Register for DUTCHESS County, State of NEW YORK and more particularly described hereinafter as follows:

LEGAL DESCRIPTION: AS DESCRIBED ON SAID MORTGAGE REFERRED TO HEREIN

PROPERTY ADDRESS: 115 SOUTH QUAKER LANE, HYDE PARK, NY 12538

ASSIGNMENT HISTORY:

An Assignment in whole dated JULY 31, 2003 and recorded from HOMEOWNERS LOAN CORPORATION to MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC. recorded on JULY 16, 2004 as Doc No. 01 2004 2254A.

And an Assignment in whole dated AUGUST 18, 2006 and from MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC. to HOUSEHOLD FINANCE REALTY CORPORATION OF NEW YORK recorded on SEPTEMBER 06, 2006 as Doc No. 01 2006 1827A.

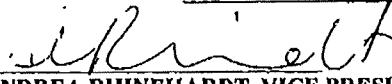
And an Assignment in whole dated MARCH 13, 2014 and from HOUSEHOLD FINANCE REALTY CORPORATION OF NEW YORK to LSF8 MASTER PARTICIPATION TRUST recorded on APRIL 25, 2014 as Doc No. 01 2014 1302A.

TOGETHER WITH all rights accrued or to accrue under said Mortgage.

TO HAVE AND TO HOLD the same unto Assignee, its successors, legal representatives and assigns, forever. The word "assignor" or "assignee" shall be construed as if it read "assignors" or "assignees" whenever the sense of this instrument so requires. This assignment is not subject to the requirements of section 275 of the Real Property Law because it is an assignment within the secondary mortgage market.

IN WITNESS WHEREOF, the undersigned has caused this Instrument to be executed on JAN 31 2019.

MTGLQ INVESTORS, L.P.

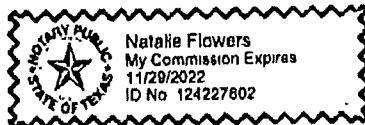

ANDREA RHINEHARDT, VICE PRESIDENT

STATE OF TEXAS

COUNTY OF DALLAS) ss.

On the JAN 31 2019 day of _____ in the year _____ before me, the undersigned, personally appeared ANDREA RHINEHARDT personally known to me to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or person upon behalf of which the individual acted, executed the instrument.

Natalie Flowers
Natalie Flowers (COMMISSION EXP.
NOV 29 2022)
NOTARY PUBLIC



RM8080117IM - AM - NY



Page 1 of 1

MIN: 100046000075000103
MERS PHONE: 1-888-679-6377

PRESS FIRMLY TO SEAL



1007



10601

U.S. POSTAGE PAID
PME 1-Day
MILLBROOK, NY
12545
JAN 29 20
AMOUNT

\$26.35

R2305K136913-02



PRIORITY
MAIL
EXPRESS®

CUSTOMER USE ONLY

FROM: (PLEASE PRINT)

PHONE ()

Don Rosewade
4848 RT. 44
Amenia NY 12601

DELIVERY OPTIONS (Customer Use Only)

SIGNATURE REQUIRED Note: The mailer must check the "Signature Required" box if the mailer: 1) Requires the addressee's signature; OR 2) Purchases additional insurance; OR 3) Purchases COD service; OR 4) Purchases Return Receipt service. If the box is not checked, the Postal Service will leave the item in the addressee's mail receptacle or other secure location without attempting to obtain the addressee's signature on delivery.

Delivery Options

- No Saturday Delivery (delivered next business day)
- Sunday/Holiday Delivery Required (additional fee, where available*)
- 10:30 AM Delivery Required (additional fee, where available*)

*Refer to USPS.com or local Post Office for availability.

TO: (PLEASE PRINT)

PHONE ()

Dra Sc Clerk
US Dist Court
White Plains NY
3rd Quarropas Street

ZIP + 4* (U.S. ADDRESSES ONLY)

10601-4140

For pickup or USPS Tracking™, visit USPS.com or call 800-222-1811.

\$100.00 Insurance included.

PEEL FROM THIS CORNER

Oct 2018
1/2 x 9 1/2



and select International destinations. See DMM and IMM at pe.usps.com for complete details.

* For Domestic shipments, the maximum weight is 70 lbs. For International shipments, the maximum weight is 4 lbs.

U.S. DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF NY (White Plains)

-----X
JONATHAN KUHL : INDEX:7:19-cv-08403-VB
Plaintiff :
v. :
U.S. BANK TRUST NATIONAL :
ASSOCIATION , NOT IN ITS INDIVIDUAL :
CAPACITY BUT SOLELY AS OWNER :
TRUSTEE FOR LEGACY MORTGAGE :
ASSET TRUST 2018GS-1, MTGLQ :
INVESTORS, LP and RUSHMORE LOAN :
MANAGEMENT SERVICES LLC : Affidavit of Service
Defendants :
-----X

DONALD ROSENDALE states under penalty of perjury:

1. I am over 18 years of age, a citizen of the U.S. and not a party to this action. I served the herein sur reply on the defendants on January 29, 2020 by placing a copy in envelopes addressed to their respective lawyers

Erina Fitzgerald Esq.
Knuckles Kominski etc.
565 Taxter Rd.
Elmsford, NY 10523

Frank Morreale Esq.
Nelson Mullins etc.
500 N. Laura St.
Jacksonville, Fla. 32202

2. Sealing those envelopes and placing them in the custody of an employee of the U.S. Postal Service.

I swear the preceding statements are true pursuant under penalty of perjury.


Donald Rosendale